

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

----- X
In re:
THE FINANCIAL OVERSIGHT AND : PROMESA
MANAGEMENT BOARD FOR PUERTO RICO, : Title III
as representative of : Case No. 17-BK-3283 (LTS)
THE COMMONWEALTH OF PUERTO RICO *et al.*, : (Jointly Administered)
Debtors.¹ :
----- X

**INFORMATIVE MOTION OF THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO, ACTING BY AND THROUGH
ITS SPECIAL CLAIMS COMMITTEE, REGARDING FURTHER ORDER PURSUANT
TO BANKRUPTCY RULES 1007(i) AND 2004 AUTHORIZING DISCOVERY AND
COMPELLING DISCLOSURE OF LISTS OF SECURITY HOLDERS**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Financial Oversight and Management Board for the Commonwealth of Puerto Rico (the “Oversight Board”), acting through its Special Claims Committee (the “Special Claims Committee”), hereby submits this informative motion (the “Motion”) pursuant to the *Order Pursuant to Bankruptcy Rules 1007(i) and 2004 Authorizing Discovery and Compelling Disclosure of Lists of Security Holders* [ECF No. 6384] (the “First Order”), entered by the Court in response to the *Urgent Motion of the Financial Oversight and Management Board of Puerto*

¹ The Debtors in these Title III cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Rico for Entry of an Order Under Bankruptcy Rules 1007(i) and 2004 Authorizing Discovery and Compelling Disclosure of Lists of Security Holders dated April 8, 2019 [ECF No. 6143] (the “Motion to Compel”).²

I. Supplemented Appendix and Effectiveness of First Order.

1. In the Motion to Compel, the Oversight Board described its process to identify certain Participant Holders of Challenged Bonds.³

2. The Oversight Board requested that the Court authorize it to issue the Document Request, as attached thereto, to the list of Participant Holders identified at Appendix 2 to Exhibit B to the Motion to Compel (“Appendix 2”), as such appendix might be supplemented or amended upon receipt of information pursuant to the Oversight Board’s search process.

3. With the First Order, the Court granted the Oversight Board’s request as to Participant Holders identified in Appendix 2 “as such appendix may be supplemented upon receipt of information” sufficient for the Oversight Board to identify Participant Holders of the Challenged Bonds. First Order, p. 9, para. 2.

4. The Special Claims Committee has completed the process of identifying Participant Holders of Challenged GO Bonds as described in the Motion to Compel and has accordingly supplemented Appendix 2 and served the First Order on all Participant Holders named therein. ECF No. 6465 (certificate of service). The supplemented Appendix 2 is attached hereto as Exhibit A.

5. By its terms, the First Order is effective as to the Participant Holders identified at Exhibit A hereto.

² Except as otherwise stated herein, the Oversight Board shall be considered to be acting through its Special Claims Committee for purposes of this Motion to Compel.

³ Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion to Compel.

II. Conclusion of Discovery Conference.

6. The First Order provides that the “parties shall meet and confer regarding the creation of an appropriate confidentiality agreement...[and] shall submit such proposal, or competing proposals to the Court, on or before April 23, 2019.”

7. In accordance with the First Order, the Oversight Board met and conferred with as many Participant Holders as possible prior to the filing hereof, including each of the parties that previously objected to the Motion to Compel.⁴

8. Pursuant to these conferences and the terms of the First Order, the Oversight Board hereby proposes that the Court issue a second order in the form attached hereto at Exhibit B (the “Proposed Second Order”), providing for, among other things, redaction of sensitive information.

9. The Oversight Board understands that U.S. Bank, The Bank of New York Mellon, Bank of America, Goldman Sachs Bank and JPMorgan Chase Bank have each consented to the entry of the Proposed Second Order.

10. The Oversight Board believes this complies with the Court’s enjoinder in the First Order that “sealing should be proposed only in very limited circumstances, if at all. Not only does sealing keep information from the public, but it imposes an incredible administrative burden on the Court.” First Order, p. 7, para. 2.

11. In sum, the Proposed Second Order would require the Oversight Board to file its complaints in redacted form using pseudonyms to identify defendants, and submit a single “key” document to the Court under seal, matching all pseudonymous defendants to identifying information. The Proposed Second Order, absent further motion as permitted by the First Order,

⁴ The Oversight Board was represented in such conference by both the undersigned counsel to the Special Claims Committee and Proskauer Rose LLP as counsel to the Oversight Board.

would be effective only for twenty-one (21) days, after which time no further redaction or filing under seal would be required. Given that the Oversight Board hopes to stay the Challenged Bonds Avoidance Actions after filing, so as to litigate the underlying issue of the validity of the Challenged Bonds, the Oversight Board believes this limited restriction on disclosure of Confidential Information would not be overly burdensome upon the producing parties, defendants, the Oversight Board, or the Court.

12. Accordingly, the Oversight Board requests that the Court enter the Proposed Second Order in recognition of the agreement of the parties as to the terms thereof.

13. The Oversight Board additionally notes that, as of the filing hereof, the Court has not ruled on the Equitable Tolling Motion. Should such motion be granted, depending on the terms of any order granting it, the Oversight Board may consider consenting to relaxation of production deadlines as well as further relief regarding confidentiality restrictions.

[The remainder of this page is intentionally blank]

CONCLUSION

WHEREFORE, attached hereto as Exhibit A is a supplemented Appendix 2; and attached hereto as Exhibit B, for the Court's consideration, is a proposed modification to the First Order to function as a confidentiality agreement in conformation therewith.

Dated: April 23, 2019

/s/ Edward S. Weisfelner
BROWN RUDNICK LLP
Edward S. Weisfelner, Esq. (*Pro Hac Vice*)
Angela M. Papalaskaris, Esq. (*Pro Hac Vice*)
Seven Times Square
New York, NY 10036
Tel: (212) 209-4800
eweisfelner@brownrudnick.com
apapalaskaris@brownrudnick.com

Stephen A. Best, Esq. (*Pro Hac Vice*)
601 Thirteenth Street NW, Suite 600
Washington, D.C. 20005
Tel: (202) 536-1700
sbest@brownrudnick.com

Sunni P. Beville, Esq. (*Pro Hac Vice*)
One Financial Center
Boston, MA 02111
Tel: (617) 856-8200
sbeville@brownrudnick.com

Counsel to the Financial Oversight and Management Board, acting through the Special Claims Committee and

/s/ Kenneth C. Suria
ESTRELLA, LLC
Alberto Estrella (USDC-PR 209804)
Kenneth C. Suria (USDC-PR 213302)
P. O. Box 9023596
San Juan, Puerto Rico 00902-3596
Tel.: (787) 977-5050
Fax: (787) 977-5090

Local Counsel to the Financial Oversight and Management Board, acting through the Special Claims Committee